

COOK COUNTY SHERIFF'S MERIT BOARD

SHERIFF OF COOK COUNTY,

vs.

CORRECTIONAL OFFICER,
MATTHEW D. ROBINSON,
Employee # [REDACTED]
Star #7505.

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) Docket # 1794
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DECISION

THIS MATTER COMING ON to be heard pursuant to notice before Jennifer E. Bae, a Board Member, and the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction:

1. Matthew D. Robinson holds a position as a Correctional Officer which involves duties and responsibilities to the public.
2. Each member of the Cook County Sheriff's Merit Board (hereinafter "Board") has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term.
3. The Board has jurisdiction of the subject matter of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes.
4. The Respondent was personally served with a copy of the Complaint and Notice of Hearing and appeared before the Board to contest the charges contained in the complaint.
5. The Board has heard the evidence presented by the Sheriff and the Respondent, and evaluated the credibility of the witnesses and supporting documents.

Background:

By complaint dated December 23, 2014, Sheriff Thomas J. Dart, sought to suspend Respondent for one hundred eighty (180) days from the Cook County Sheriff's Office. The complaint alleges that Respondent violated the Rules and Regulations and General Orders of the Cook County Sheriff's Office, and Rules and Regulations of the Cook County Merit Board when Respondent failed to submit a Use of Force Report and/or a Use of Data Collection Report Witness Statement after observing CO [REDACTED] use force against a detainee, specifically:

SHERIFF'S ORDER 11.2.1.0 (effective September 19, 2011)

RESPONSE TO RESISTANCE/USE OF FORCE POLICY, in its entirety, including but not limited to, the following subparts:

II. Policy

Officers shall use an amount of force reasonable and necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect the officer(s) or others from injury, as specified by federal/Illinois statutes and law.

The CCSO utilizes the Use of Force Model (2010) – John C. Desmedt and Protective Safety Systems Incorporated to provide guidance on the appropriate amount of force to be used to effect a lawful purpose and to articulate a detailed report on the officer's actions. The Use of Force model employs the progressive and reasonable escalation and de-escalation of officer applied force in proportional response to the actions and level of resistance offered by a subject.

Every use of force greater than social control, officer presence or verbal control must be reported as outlined in this directive. Officers shall not unreasonably endanger themselves or another person to conform to the restrictions of this directive.

V. Definitions

- S. Use of force – the application of physical, chemical, or mechanical measures to compel compliance by an unwilling subject. Every use of force greater than social control, officer presence or verbal control must be reported as outlined in this directive.

VII. Guidelines

- G. Use of force does not include un-resisted handcuffing or un-resisted shackling of subjects for movement purposes, routine transportation, un-resisted searches, or the use of general security devices that include but are not limited to approved waist restraint system (blue box and belly chains), flexible handcuffs (zip cuffs).

VIII Procedures

- D. Reporting alleged or actual excessive force incidents.

Any employee:

- 2. Witnessing a use of force incident shall be required to complete and submit to the responding supervisor a Witness Statement as

port of the Data Collection Form completed by the watch commander prior to the end of the shift.

XIII. Applicability

- A. By order of the Sheriff of Cook County, this Sheriff's Order applies to all CCSO officers and must be strictly observed.
- B. Any conflicts with previous orders, policies or procedures shall be resolved in favor of this order.
- C. All CCSO officers are required to familiarize themselves with the contents of this order and to adhere to the policy established herein.

GENERAL ORDER 24.9.1.0 (effective July 11, 2011)

REPORTING INCIDENTS, in its entirety, including but not limited to, the following subparts:

II. Policy

It is the policy of the CCDOC to have written procedures for reporting and documenting incidents involving staff, inmates, and visitors, as well as to ensure that incidents or problems with the facility, i.e., sanitation, plumbing, electrical, ventilation, or any other situation that creates a dangerous workplace, are reported and documented in timely and professional manner.

Employees shall immediately report to their supervisor any information indicating a violation or attempted violation of criminal laws, or a threat to the safety and security of the facility, its property or any person. Reports shall be made verbally and in writing as directed by this order.

VII. Procedures

A. Notification

- 1. All reportable incidents occurring within CCDOC involving staff, inmates, or visitors are required to be verbally reported and documented on an Incident Report by staff via the chain of command.
- 2. Response to resistance/use of force incidents by staff shall be reported in accordance with the current CCSO Response to Resistance/Use of Force Policy.

B. Incidental Report Requirements.

2. CCDOC staff shall completely and accurately document any incident or situation that he or she observes or that is reported to him/her.
3. All CCDOC staff shall promptly prepare the Incident Report and forward the report to the supervisor.
4. –
5. –
6. Incident Reports shall be prepared immediately after an incident in order to be as accurate as possible; however, they shall be completed, submitted and reviewed by a supervisor prior to being relieved from duty.

C. Any employee failing to file a report or filing a false report shall be subject to disciplinary action up to and including termination of employment and/or the filing of criminal charges.

F. General Reporting Guidelines

2. Complete and accurate documentation of events and incidents within CCDOC facilities and other sites are essential. Written reports and reports in IMACS serve to keep staff informed of developments and problem areas within the facilities. Reports are also instrumental in the planning and implementation of Sheriff's Office policies and procedures.

VIII. Applicability

This General Order is applicable to all employees of the Cook County Department of Corrections. All employees shall familiarize themselves with the contents of this order. All supervisors will review the contents of this order with all employees under their supervision as appropriate, and ensure the provisions as outlined are strictly adhered to. This order is for strict compliance.

GENERAL ORDER 3.8

ETHICS AND STANDARDS OF CONDUCT, in its entirety, including but not limited to, the following subparts:

I. POLICY

It is the policy of the Cook County Department of Corrections that employees will conduct themselves in a professional and ethical manner, both on and off duty.

Employees will not engage in activities unbecoming of county employees, or conduct that reflects unfavorably to the Office of the Sheriff of Cook County.

III. Requirements

The CCDOC Code of Ethics requires the highest level of conduct from all employees. It is the expectation that sworn and civilian employees conduct themselves with high standards of professional conduct and behavior. Employees that fall [sic] to maintain high standards of conduct and ethics, will be subject to corrective or disciplinary action, and may include recommendation for termination.

A. Compliance with Laws and Regulations

4. Employees will comply with lawful departmental rules, written procedures, directives, bulletins, and verbal orders issued by the proper authorities.

SHERIFF'S ORDER 11.2.20.0 (effective January 25, 2013)

RULES OF CONDUCT, in its entirety, including but not limited to, the following subparts:

II. Policy

The CCSO serves the citizens of Cook County by performing law enforcement functions in a professional manner, and it is to these citizens that the CCSO is ultimately responsible. Employees of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. Employees shall not engage in activities that reflect unfavorably on the CCSO but shall instead serve to further the mission of service.

III. Applicability

This order is applicable to all employees of the CCSO and is for strict compliance. Any violations of this Sheriff's Order may result in disciplinary action up to and including termination. Any conflicts with existing directives shall be resolved in favor of this order.

VI. Rules and Regulations for all sworn and civilian CCSO employees

A. Compliance with Laws, Ordinances, and Regulations

2. Employees shall comply with lawful rules, Sheriff's Office written directives, verbal orders, SEAM articles, and political prohibitions issued by the proper authorities.

D. Prohibited associations, establishments, and activities.

25. Fail to cooperate or fail to be truthful with external and/or internal agencies in an investigation of a criminal or civil matter.
- H. Reporting violations.

4. Employees are prohibited from making a false report, written or oral.

- I. Cooperation within the CCSO and with other agencies.

CCSO employees shall:

1. Truthfully answer all questions, provide proper materials, and provide truthful and relevant statements when the employee is involved in an investigation, either as the subject or not, as long as the employee's rights are preserved.

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:

Article X, Paragraph B

No Police Officer of the Cook County Sheriff's Police Department, nor any Correctional Officer of the Cook County Department of Corrections, nor any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

3. violate any of the general orders, special orders, directives or rules and regulations of the CCSD.

Issues Presented:

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what if any discipline is appropriate if a violation occurred.

Evidence Presented:

A hearing was conducted on May 7, 2015 and June 10, 2015 at the Cook County Administration Building, 69 W. Washington Street, Room 1100, Chicago, Illinois. Present were Assistant State's Attorneys [REDACTED] and Assistant General Counsels [REDACTED] on behalf of the Cook County Sheriff and Attorney [REDACTED] on behalf of the Respondent Mathew Robinson and [REDACTED] on behalf of the Respondent [REDACTED]

The following exhibits were admitted into evidence:

Joint Exhibits:

- 1 video of the incident
- 2 [REDACTED] notes taken during an interview of [REDACTED]
- 3 [REDACTED] medical record
- 4 Sheriff's Order 11.2.20.0
- 5 Sheriff's Order 11.2.1.0
- 6 General Order 4.1
- 7 General Order 24.9.1.0
- 8 General Order 3.8
- 9 Merit Board Article X
- 10 Complaint filed against Robinson
- 11 Complaint filed against [REDACTED]
- 12 [REDACTED] disciplinary form
- 13 [REDACTED] report

Sheriff's Exhibits:

- 1 [REDACTED] statement to OPR dated 3-17-2014
- 2 Robinson's statement to OPR dated 3-4-2014
- 3 Sheriff Incident Report with tracking number 120001224

Robinson's Exhibits:

- 1 [REDACTED] statement to OPR dated 3-12-2014
- 2 [REDACTED] complaint register
- 3 -
- 4 -
- 5 [REDACTED] notes from OPR interview of Robinson
- 6 [REDACTED] background

[REDACTED] Exhibits:

1. -
2. A watch commander's preliminary finding signed by [REDACTED]

The following witnesses testified for the Sheriff:

[REDACTED]

[REDACTED] (herein after "[REDACTED]") testified that he currently works at the Cook County Sheriff's Office, Department of Corrections Division XI, 3 to 11 shift. He had been with the CCSO for 3 years 8 months.

On March 27, 2012, he was working at the Division XI, 7 to 3 shift on AH tier. He explained that AH tier housed protective custody and transgender inmates. He did not see anything unusual happened between inmate [REDACTED] (herein after "[REDACTED]") and Correctional Officer [REDACTED] (herein after "[REDACTED]"). He did observe [REDACTED] take his shirt off and swear and yell at [REDACTED] for approximately 1 minute. He did not remember if [REDACTED] said anything in response to [REDACTED]. He believed [REDACTED] was on the tier to remove an inmate. [REDACTED] said Correctional Officer Matthew Robinson (herein after "Robinson") was present as a backup officer. He then observed [REDACTED] and [REDACTED] move around the day room as [REDACTED] was yelling. He described the tier as having 12 cells on the bottom with 2 sets of stairs that go up to the top deck with 12 additional cells. There were 2 inmates housed in each cell total of 48 inmates on tier AH. [REDACTED] said [REDACTED] was overly aggressive toward [REDACTED] but [REDACTED] was able to grab [REDACTED] by the arm taking [REDACTED] to his cell. He did not hear Robinson say anything to anyone. When [REDACTED] walked toward the cell, he observed [REDACTED] in handcuffs against the wall as Robinson was packing up [REDACTED] property. Because [REDACTED] was watching other inmates, he did not know when Robinson entered the cell. He did not observe [REDACTED] attempting to spit on the officers. Once they left the cell, [REDACTED] stopped at a desk to pick up [REDACTED] ID to give to the movement officer. [REDACTED] did follow behind [REDACTED] and Robinson as [REDACTED] was being escorted off the tier but [REDACTED] was not able to see what occurred in the hallway. He heard from other officers that [REDACTED] had spit on [REDACTED]. Once [REDACTED] was in the hallway, he observed [REDACTED] sitting down against a wall. He did not observe [REDACTED] striking or use force against [REDACTED] at any point. He did not fill out any report or speak to any supervisor regarding this incident.

A video of the incident was played. At 9:53:24, [REDACTED] explained that the individual walking out and throwing his shirt on the ground was [REDACTED]. The officer talking to [REDACTED] was [REDACTED] as [REDACTED] appeared in the video. There was another officer who appeared to be Robinson. [REDACTED] did not remember the conversation between [REDACTED] and [REDACTED]. [REDACTED] said [REDACTED] was already in handcuffs when he walked up to the doorway of [REDACTED] cell.

Second video of the incident that occurred in the hallway was played. At 9:59:55, [REDACTED] walked out of the Tier AH with Robinson right behind [REDACTED] where a stairwell was on the right-hand side. In the hall, Robinson dropped [REDACTED] belonging by him as [REDACTED] sat on the ground. [REDACTED] did not see [REDACTED] strike or push [REDACTED] into the wall.

On cross-examination by [REDACTED] attorney, [REDACTED] testified that while [REDACTED] and [REDACTED] were walking around the day room, [REDACTED] was yelling at [REDACTED]. He did not remember what [REDACTED] said to [REDACTED]. [REDACTED] did not observe [REDACTED] use any force against [REDACTED] in the day room. [REDACTED] said when [REDACTED] came out of his cell in handcuffs, he did not appear to have any injuries.

On cross-examination by Robinson's attorney, [REDACTED] testified that Robinson's Exhibit 1 was the statement he gave to OPR. [REDACTED] said the part of the statement that said "[REDACTED] stated when he got to the cell, the inmate was standing in cuffs, and Officer Robinson was packing the inmate's belongings" was an accurate summary of what he told the OPR investigators.

[REDACTED] said had been in a different building almost every day for the first 6 months. On the date of the incident, he was assigned to Division XI and had been there for 2 months but not every day because he was on the roster management which meant that he filled in gaps when other officers were off. He was not given specific direction or training as to how to operate as an officer in Division XI except what he learned in the academy. [REDACTED] said he had never dealt with disruptive inmates prior to this incident. He was not asked by any sergeants or lieutenants to

complete a use of force report. He said since there was no use of force, there was no need to fill out a use of force report. He did not believe this incident warranted a completion of an incident report either. [REDACTED] said during the incident in the day room, [REDACTED] was yelling and swearing at [REDACTED] using F word. After reviewing the video of the day room, [REDACTED] said there were about 12 to 13 inmates in the day room. [REDACTED] explained that as long as the inmates were not threatening or misbehaving, they can go anywhere in the day room, talk on the phone, watch TV, work out or play cards. He characterized [REDACTED] behavior of taking his shirt off to be disruptive. [REDACTED] said he did not hear anyone call [REDACTED] a faggot, bitch or homosexual but he did hear one of the officers tell [REDACTED] "go pack your shit." He did not observe any officers place [REDACTED] in a head lock, punch [REDACTED] in the eye, observe [REDACTED] fall to the ground in the day room, knee or elbow [REDACTED] in the face, ribs, and/or spine area, beat on for 5 to 10 minutes, or laugh at [REDACTED]. [REDACTED] did not observe [REDACTED] to have a black eye or walk with a limp holding his ribs. [REDACTED] was not disciplined for this incident.

[REDACTED] said he did not know if [REDACTED] was taken to a medical unit after this incident. On March 12, 2012, [REDACTED] was the officer responsible for filling out the log book. He did not put anything in the log book about this incident because nothing happened. An inmate being moved to another tier was every day thing. The fact that [REDACTED] had handcuffs did not require a completion of a use of force report because all inmates were placed in handcuffs when being moved. Based on his training, [REDACTED] believed that when an incident involved a use of force, only one officer who was involved in the incident was required to complete a report.

[REDACTED] (herein after "[REDACTED]") testified that he had been employed by the CCSO from 1985 to 2014 and currently retired. He was the Deputy Director at the Cook County Sheriff's Training Institute prior to retiring. In March of 2014, he was assigned to the use of force task force with Investigator [REDACTED] (herein after "[REDACTED]") of OPR. He was assigned to investigate this matter sometime in February and March of 2014. He received a file with a complaint register and other documents including officer's report, incident report, medical report, and list of officers on duty at the time of the incident. After reviewing all documents, he investigated 3 officers: [REDACTED] Robinson and [REDACTED]. The allegation made by [REDACTED] was that [REDACTED] punched him in the face while in the cell and shoved him into a door with a glass window. [REDACTED] said that he interviewed [REDACTED] Robinson, [REDACTED] Lt. [REDACTED] and Lt. [REDACTED] in person. [REDACTED] also interviewed [REDACTED] on the phone.

Sheriff's Exhibit 1 was the statement given by [REDACTED] to OPR on March 17, 2014 with attachments (notice of charges, waiver of counsel, and administrative proceeding rights). Present during this interview was [REDACTED] Parks, [REDACTED] and [REDACTED] Union Representative. Once all attachments were read and signed, [REDACTED] conducted an interview. The statement of [REDACTED] was typed up, reviewed, and signed by all parties. [REDACTED] was allowed to make any changes but chose not to. [REDACTED] signed 2 statements because the first one had [REDACTED] name at the top which was a mistake. The 2 statements were exact same except for the names at the top.

During this interview, [REDACTED] told [REDACTED] that an inmate was being transferred from one tier to another. The inmate did not want to pack his stuff for the transfer and so [REDACTED] was there to help with the transfer. The inmate became agitated, made threatening gestures toward him, and threw off his shirt in the day room. While in the cell, [REDACTED] said that the inmate charged at him and he had to take him down to the ground to handcuff him. [REDACTED] classified [REDACTED]

behavior of taking the inmate down to the ground to handcuff as use of force because force was used to subdue and control the inmate. [REDACTED] further said that once the inmate was under control, his belonging packed, they walked out of the tier. As they were walking, other inmates were telling [REDACTED] to spit at [REDACTED] at which time [REDACTED] said, "Yeah, I'm going to spit at him." As they were leaving the tier, [REDACTED] said [REDACTED] spit on the ground. [REDACTED] told [REDACTED] that "you can spit on the ground, but you're not going to spit on me." [REDACTED] then told [REDACTED] that [REDACTED] attempted to spit at him at which time, [REDACTED] pushed [REDACTED] from behind into a wall. The Sheriff's Exhibit 1 said that "I pushed [REDACTED] into the wall, then folded his arm up and laid him down on the floor across the hall." [REDACTED] said [REDACTED] told him that Robinson was present in the cell when [REDACTED] took [REDACTED] down to the ground to handcuff him. [REDACTED] then showed [REDACTED] the videos of the incident in the day room and hallway. In the video of the incident that occurred in the hallway, it showed [REDACTED] walking out facing a wall as he was handcuffed behind his back and [REDACTED] coming behind [REDACTED] shoving him in the middle of the back into a wall. From the video, [REDACTED] said he did not observe [REDACTED] attempting to spit at [REDACTED] [REDACTED] explained that after the incident in the cell, [REDACTED] should have been escorted when walking into the hallway which meant that [REDACTED] should have been in control of the inmate. The video showed [REDACTED] walking into the hallway by himself and then [REDACTED] walking up behind shoving him into a wall. The video then showed [REDACTED] taking control of [REDACTED] and bringing him to the other side of the hall, putting him on his knees and then to the ground. After [REDACTED] reviewed the video during the interview, he did not change his statement or offer any explanation as to what had happened. [REDACTED] asked [REDACTED] if he had called for a supervisor and [REDACTED] told him that he had called for a supervisor after [REDACTED] was on the floor.

[REDACTED] interviewed Robinson at the OPR conference center along with [REDACTED], and Robinson's Union Representative. Sheriff's Exhibit 2 was Robinson's statement along with attachments (notice of allegations, administrative rights, and waiver of counsel). After all the attachments were read and signed, the interview took place. The statement made by Robinson was reduced to two page document as part of Sheriff's Exhibit 2, signed by all parties as being accurate. Robinson was allowed to review the statement and make changes at which time he chose not to. Robinson told [REDACTED] that on March 27, 2012, he was working the core which was outside the tier but heard that there was a problem in the tier so he went into the tier to be a backup officer. Robinson told [REDACTED] that other officers may have called for a supervisor but that supervisor had not responded. He observed [REDACTED] being aggressive toward officers by ripping his shirt off and throwing it on the table in the day room. He explained that he believed [REDACTED] was mad because the officers called him "Mister" and that Tier AH was protective custody housing transgendered inmates. He said [REDACTED] told [REDACTED] to go to his cell and pack his stuff. Robinson did not see [REDACTED] make any contact with [REDACTED] while in the day room. He himself did not make any contact with [REDACTED] Robinson said [REDACTED] escorted [REDACTED] to the cell. Inside the cell, [REDACTED] told [REDACTED] to pack his stuff and asked which bunk was his. [REDACTED] said, "I ain't packing nothing." Robinson entered the cell at that point and told [REDACTED] that he was going to pack his stuff. Robinson packed all of [REDACTED] belongings in a sheet. Robinson said that [REDACTED] stood next to [REDACTED] by the doorway as he packed the stuff. Robinson said nothing happened inside the cell. Robinson said that only [REDACTED] and he were in the cell with [REDACTED] Once packing was done, [REDACTED] put handcuffs on [REDACTED] [REDACTED] escorted [REDACTED] out of the cell off the tier, and Robinson followed as he was the last one to leave the cell. He did not observe [REDACTED] use any force against [REDACTED] and therefore, he did not submit use of force paperwork. He also believed that [REDACTED] included him when [REDACTED] filled out the use of force/incident report. Robinson then

told [REDACTED] that he exited tier and entered the hallway where he observed [REDACTED] sitting on the floor bleeding. He did not know how or where [REDACTED] was injured. After observing this, Robinson dropped [REDACTED] belongings on the floor near [REDACTED] and called for a lieutenant.

In the first video of the day room, [REDACTED] said he observed [REDACTED] and [REDACTED] walking around the day room; [REDACTED] took control of [REDACTED] and walked [REDACTED] toward the open cell door underneath the stairway with Robinson behind [REDACTED]. In front of the stairway was Robinson moving toward the cell door and then Robinson was seen standing in the doorway of the cell.

Once the investigation was completed, [REDACTED] found that [REDACTED] had violated orders, rules and regulation when he used excessive force against [REDACTED]. This happened when [REDACTED] shoved [REDACTED] from behind while [REDACTED] was standing in the corridor with his back to [REDACTED] in handcuffs. [REDACTED] did not sustain a charge of excessive force used by [REDACTED] for the incident inside the cell because he could not see inside the cell from the video. [REDACTED] concluded that [REDACTED] was not truthful to him regarding the incident in the hallway. [REDACTED] did not see [REDACTED] spit at [REDACTED] or even attempt to spit at [REDACTED]. [REDACTED] believed that [REDACTED] was defenseless facing the wall in handcuffs. He believed [REDACTED] used excessive force in the hallway because he did not see [REDACTED] take any aggressive move toward [REDACTED].

In addition, [REDACTED] found that Robinson had violated orders, rules and regulations when he failed to write a use of force report. Based on the statement made by [REDACTED] Robinson, [REDACTED] and review of the video, [REDACTED] believed that Robinson was not being truthful as to what had happened in the cell. Robinson had said that he saw absolutely nothing in the cell which was completely inaccurate compared to [REDACTED] and [REDACTED] statements. [REDACTED] said that Robinson was required to fill out a use of force report or an incident report when he witnessed the use of force even without a commander ordering him to do so. [REDACTED] further said that [REDACTED] use of force report did not relieve Robinson from filling out his own use of force report pursuant to the Sheriff's General Orders. [REDACTED] did not file charges against [REDACTED] because there was nothing in the [REDACTED] Robinson's, [REDACTED] statements or the video that showed that [REDACTED] had done anything or took part in any way. Once [REDACTED] was done with the investigation, he turned in his reports to his supervisor and it went through the Command Channel Review.

On cross-examination by Robinson's attorney, [REDACTED] testified that when sustaining charges against Robinson, he relied on the video, [REDACTED] statements, [REDACTED] statement and Robinson's statement in addition to the general orders that applied to this matter. [REDACTED] said that Robinson's statement was different from [REDACTED] and [REDACTED] statements in that Robinson said nothing happened in the cell but [REDACTED] and [REDACTED] both said that there was an incident inside the cell. [REDACTED] said he reviewed both [REDACTED] statement to OPR and a handwritten complaint register. [REDACTED] interviewed [REDACTED] on the phone in addition to Investigator [REDACTED]. In this interview, [REDACTED] told [REDACTED] that [REDACTED] punched him in the face, threw him on the ground, handcuffed him and kneed him inside the cell. [REDACTED] did review the medical report but did not remember if there was any injury to [REDACTED] abdominal area. [REDACTED] did remember that when Fitzgerald interviewed [REDACTED] the day after the incident, [REDACTED] had a black eye. Robinson's Exhibit 2 was a copy of [REDACTED] complaint register that contained his signature along with a notary public's signature that demonstrated that the statement was accurate and that the complainant was committing perjury if he/she was untruthful. [REDACTED] said that he did review this document as part of his investigation along with [REDACTED] medical record (Joint Exhibit 3) and [REDACTED] notes from the interview of [REDACTED] (Joint Exhibit 2). [REDACTED] said he reviewed Parks' notes prior to typing up Robinson's statement. [REDACTED] said he reviewed [REDACTED] background during his investigation that showed that [REDACTED] was charged with obstruction of justice but he

did not know whether [REDACTED] was convicted. [REDACTED] agreed that the purpose of an Incident Report Form was to report incidents and there was a special meaning attached to the word "incident". In Robinson's OPR statement, Robinson said that "[t]here was absolutely no incident in the cell." [REDACTED] did not ask Robinson in what sense he was using the word "incident". Robinson told that it was he who packed up [REDACTED] belonging in a sheet. One of the reasons why [REDACTED] did not sustain charges against [REDACTED] was because nobody put him in a position to see what had happened. [REDACTED] concluded that Robinson saw what had happened inside the cell when Robinson was standing in front of the cell as shown on the video when [REDACTED] used force. A part of the video was played at 9:57:12 where [REDACTED] entered the cell where [REDACTED] and Robinson were inside. [REDACTED] did not fill out any use of force report. [REDACTED] said Robinson would not have to fill out any report if he had not seen anything inside the cell. Sometime in February 2014, [REDACTED] called [REDACTED] and told him that he no longer wanted to pursue his complaint but did not give any reason. [REDACTED] denied telling Robinson during the OPR interview that nothing would come out of this and he did not see any other investigator telling Robinson the same.

On cross-examination by [REDACTED] attorney, [REDACTED] testified that [REDACTED] was consistent with his statements during the OPR interview compared with the report he had filed previously. In the [REDACTED] complaint register (Robinson's Exhibit 2), [REDACTED] wrote that "Correctional Officer [REDACTED] then grabbed me, punched me in the knee, elbowed me several times in my face, ribs, spine area" however, when [REDACTED] spoke to [REDACTED] [REDACTED] told him that [REDACTED] had punched him in his face. [REDACTED] said that it was true that handcuffing an inmate did not necessarily require the use of force report. [REDACTED] said [REDACTED] took [REDACTED] down to the ground to handcuff him which required the use of force report. A part of the video was played at 9:55:48 where [REDACTED] made contact with [REDACTED] twice chest to chest. [REDACTED] explained that in the video, [REDACTED] was agitated and aggressive but at some point, as they were walking around the day room, [REDACTED] stopped. [REDACTED] then bumped [REDACTED] chest to chest twice. [REDACTED] could have handcuffed [REDACTED] called for a Supervisor, a camera, or OC spray. [REDACTED] explained that [REDACTED] had enough backups with 4 to 5 officers in the day room during the incident. [REDACTED] did not sustain any charges against [REDACTED] for the incident in the day room. [REDACTED] said that from what he saw on the video of the incident in the hall way, [REDACTED] did not spit or attempt to spit at [REDACTED] There was no audio to this video. It was [REDACTED] who told him that [REDACTED] told him that he was going to spit at [REDACTED] What [REDACTED] saw on the video was that [REDACTED] came around the corner facing a wall and the only time [REDACTED] moved was when [REDACTED] shoved him against a wall. [REDACTED] said if an inmate did spit on an officer, it could be considered battery. Joint Exhibit 3, [REDACTED] medical record said that [REDACTED] had a laceration to right forehead when his head was slammed into a window by officer. [REDACTED] agreed that when [REDACTED] told him that he pushed [REDACTED] into a wall, [REDACTED] statement was consistent with the video.

On redirect examination, [REDACTED] testified that during Robinson's OPR interview, Robinson told [REDACTED] that he observed [REDACTED] handcuff [REDACTED] in the cell. Joint Exhibit 13, [REDACTED] use of force report, stated that [REDACTED] was the "moving resister" and checked off boxes for "slightly evasive movement of arm" and "flailing" to describe [REDACTED] behavior. Under the officer's response, the box for "take down/emergency handcuffing" was checked off. [REDACTED] explained that when an officer performed a takedown and had to perform emergency handcuffing of an inmate, the officer must fill out a use of force report. [REDACTED] said that he did not make a finding that [REDACTED] used excessive force against [REDACTED] in the cell because he saw no evidence that told him that had happened. He did believe that force was used in the cell based on

both [REDACTED] and [REDACTED] statements. He said he didn't know why both [REDACTED] and [REDACTED] would say that force was used if nothing happened as Robinson claimed.

On re-cross examination by Robinson's attorney, [REDACTED] testified that the Joint Exhibit 13, [REDACTED] use of force report only described what happened outside Tier AH in the hallway.

On re-cross examination by [REDACTED] attorney, [REDACTED] testified that Respondent's Exhibit 5, [REDACTED]' notes from the OPR interview was considered and reviewed when [REDACTED] typed up Robinson's statement.

[REDACTED]

[REDACTED] (herein after "[REDACTED]") testified that he was employed by the CCSO from August 1, 1979 to August 1, 2014. He had retired as a lieutenant. On March 27, 2012, he worked in Division XI and was the shift commander for 7 to 3. [REDACTED] was informed by [REDACTED] that use of force was used but [REDACTED] did not elaborate what kind of force was used. [REDACTED] sent a supervisor to investigate. As the lieutenant and the shift commander, [REDACTED] role was to investigate it, fill out the use of force paperwork, make sure all other paperwork was done, notify his supervisor, and get medical treatment. Sheriff's Exhibit 3 was the Sheriff Incident report, incident tracking number [REDACTED] involving [REDACTED] and [REDACTED] dated March 27, 2012. [REDACTED] filled out the portion for the action taken by the supervisor and [REDACTED] filled out the incident portion. [REDACTED] explained that when force was used, the officer must notify a supervisor, fill out an incident report, use of force report, and get medical treatment for the inmate. A witness that was an officer must also fill out the use of force report. He did not recall if Robinson filled out any report. He did recall [REDACTED] receiving medical treatment. [REDACTED] said he notified Commander [REDACTED] and Superintendent [REDACTED] who reviewed the video and contacted OPR and the Sheriff's Police.

On cross-examination by Robinson's attorney, [REDACTED] testified that Robinson's Exhibit 3 was a statement made by [REDACTED] signed by [REDACTED] but taken by the watch commander from the Sheriff's Police with star number 207. [REDACTED] said he did not speak to the watch commander about this statement but did not have any doubt that it was less than a complete statement made to the watch commander. [REDACTED] said Robinson's Exhibit 3 was made part of the use of force report that was faxed over to the superintendent, Sheriff's Police, and OPR. [REDACTED] said it was his signature on Robinson's Exhibit 3 but everything else including his handwritten name, date and the statement were not his. [REDACTED] did not remember if he personally interviewed Robinson but said that if a use of force was used and Robinson was a witness, Robinson should have completed a witness statement. [REDACTED] did interview [REDACTED] since [REDACTED] had to file an incident report and use of force paperwork. [REDACTED] did not recall [REDACTED] [REDACTED] agreed that an officer was not required to fill out a use of force report to for handcuffing a detainee who did not resist. [REDACTED] acknowledged that he worked with Robinson for approximately 4 to 5 years in Division XI and across other compounds. He had the opportunity to observe Robinson at work and during those times, he had not observed Robinson to perform his duties poorly. [REDACTED] believed that Robinson came to work, did his job and had not seen any disciplinary actions.

On cross-examination by [REDACTED] attorney, [REDACTED] testified that Sheriff's Exhibit 3 said that the time of the report was "17:25"; incident shift was "Days"; incident type was "Battery to staff"; and action taken was "reviewed the video." [REDACTED] said he reviewed the video along with Commander [REDACTED] and Superintendent [REDACTED] Exhibit 2 was the

report from the watch commander's preliminary finding based upon available information, and signed by [REDACTED] at 17:35. The watch commander's preliminary finding was that "all officers acted in accordance with department policy." At the time of the report, [REDACTED] believed that all officers acted in accordance with the department policy.

The following witness testified on behalf of the Respondents:

[REDACTED]

[REDACTED] (herein after "[REDACTED]" was called by [REDACTED] attorney. [REDACTED] is currently employed by Teamsters Local 700 as a business agent and had been so for 3 years. He worked in the CCDOC grievances, arbitrations, and negotiating contracts. Prior to this, he worked at CCDOC for approximately 30 years. He started as an officer, promoted to sergeant, to lieutenant, to captain, to chief, superintendent, to assistant director, down to superintendent, and retired as a commander. The last assignment at the CCDOC was to train officers in the use of force policy at Moraine Valley Community College in 2011. This new policy came into effect in September 2011 after all officers received 8 hour training. [REDACTED] believed that the policy he taught in 2011 did not change. He said the standard for use of force was that if the officer feared for his life, life of others, and that there was imminent danger or injury, the officer had to react and use force necessary to prevent that considering totality of the circumstances.

[REDACTED] attorney attempted to ask [REDACTED] if what [REDACTED] did was within the scope of the standard for the use of force policy. He's testimony was objected based on improper expert witness. [REDACTED] was not disclosed as an expert witness and the testimony that was being elicited would have been qualified as an expert witness. This witness was not allowed to give opinion as to whether [REDACTED] followed the use of force policy.

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[REDACTED]

[REDACTED]e [REDACTED] (herein after "[REDACTED]" was called by Robinson's attorney. [REDACTED] is currently employed by CCDOC as a correctional officer and had been there for 25 years. She worked in Division XI in March 2012 and at that time; she had been there for 2 years. She worked 7 to 3 shift on March 27, 2012. She remembered the incident that occurred between [REDACTED] and [REDACTED]. She was interviewed by OPR and gave a statement, marked as Robinson's Exhibit 4. The statement stated that she did not recall the incident clearly, she did not recall the conversation that was going on between [REDACTED] and [REDACTED] she did not recall hearing a struggle or a scuffle in the cell, she did not see [REDACTED] get hit, and she did not recall seeing anything in the hallway outside of the tier. During the incident, [REDACTED] was doing paperwork for segregation and classifications that took place outside of the tier in a fully enclosed office. She said she was depicted in the video at 9:56:08 as the officer leaning over a table, bottom left-hand side. She was in the day room because of an altercation between 2 inmates that were having a relationship. She did not recall personally seeing [REDACTED] come out of his cell. [REDACTED] explained that if there was an altercation between an inmate and an officer, other inmates would have been all over it. She classified an officer/inmate use of force incident as "not that often." She explained that if an

incident occurred in a cell where other inmates became aware of it, they would rush toward the cell.

On direct examination by [REDACTED] attorney, [REDACTED] testified that she did not remember how the incident occurred, but she did remember that [REDACTED] was not in compliance, became hostile, took off his shirt, and yelled at [REDACTED]. She said the officers escorted him to try to pack his stuff so that he could be escorted to the hole. She did not believe [REDACTED] touched [REDACTED] in the day room.

On cross-examination, [REDACTED] testified that when detainee and officer yell at each other, other inmates yell and scream too. After seeing part of the video, [REDACTED] said that the other inmates remained calm as [REDACTED] and [REDACTED] were exchanging words. There was an inmate in the video who was a transgender that [REDACTED] was upset about. This was the inmate that [REDACTED] was focused on and not others in the day room. As [REDACTED] was being escorted to his cell by [REDACTED] [REDACTED] was having a conversation with the transgender inmate. The transgender inmate became angry and threw a deck of cards on the table. [REDACTED] then escorted the transgender inmate off the Tier AH without using force and was not required to fill out an incident report.

[REDACTED]

[REDACTED] (herein after "[REDACTED]") was called by Robinson's attorney. [REDACTED] is employed at CCDOC and had been so for the past 21 years. In March 2012, he worked at Division XI, 7 to 3 shift. [REDACTED] watched the video of the incident. He identified himself at 9:56:22 as the officer between the two tables to the far right of the screen. At 9:56:11, he saw people coming out of a cell toward the exit. He said that he held the door coming out of the tier for the 2 officers and an inmate. As [REDACTED] watched [REDACTED] walking, he did not observe limping, bleeding or injured in any way. [REDACTED] did not hear [REDACTED] say anything about officers using force on him. At 9:59:36, [REDACTED] identified [REDACTED] as the man with shirt off and red pants. The officer at the right hand corner was Robinson who appeared to have something in his hand. [REDACTED] did talk to OPR about this incident but did not remember if he had talked about whether [REDACTED] was injured or not.

On cross-examination, [REDACTED] testified that as he was holding the day room door, he did not observe [REDACTED] spit on [REDACTED] on the ground nor say anything about attempting to spit on [REDACTED]. Once the officers and inmate walked through the door [REDACTED] was holding, he followed them after 1 minute later. He did not observe what had happened in the hallway.

On redirect examination by [REDACTED] attorney, [REDACTED] testified that at 9:53 on the video, [REDACTED] was irate and started cursing and shouting at [REDACTED]. [REDACTED] did not observe [REDACTED] touching [REDACTED]. [REDACTED] explained that the other officers were standing around for safety but there was no incident meaning no physical incident, just swearing. [REDACTED] was able to calm [REDACTED] down at some point without getting physical. [REDACTED] again explained that he did not intervene because it was not an incident and he believed that [REDACTED] was handling it.

MATTHEW ROBINSON:

Matthew Robinson testified on his behalf. Robinson testified that he is currently employed by CCDOC as a correctional officer and had been so for 20 years. He first started in Division X, then to Division IV and then to Division XI. He had been at Division XI for the past 4 years at 7 to 3 shift. He explained that he was a part of a crew that moved within the division to

smooth out the rough parts. He had not bid for this assignment but was assigned to this crew about 3 years prior by Lt. [REDACTED] and Director [REDACTED]. On March 27, 2012, Robinson worked from 7 to 3 shifts and approximately 10 am, he was in the day room, and he was present during an occurrence between [REDACTED] and [REDACTED]. Robinson said he was interviewed by OPR and gave a statement, Sheriff's Exhibit 2. He was in upper A Pod that consisted of 4 tiers that housed transgender inmates, protective custody inmates, and inmates with disciplinary problems. Robinson believed that the transgender inmates had their own tier, because they had problems with the general population; the protective custody inmates were either high profile cases or inmates that could not be around other inmates; and the last group was inmates with infractions. Robinson explained that these inmates were dangerous. Robinson viewed a part of the video; he said at 9:56:06, he was the officer by the stairs backing up [REDACTED] who was heading to the cell. [REDACTED] did not ask for assistance but Robinson said he was doing his job which was part of his standard training. At 9:56:22, Robinson said he was standing at the door of the cell observing both [REDACTED] and [REDACTED]. Robinson said there was no need for him to get involve because he only observed "verbal back and forth between" [REDACTED] and [REDACTED]. Robinson explained that [REDACTED] insulted [REDACTED] as [REDACTED] was telling [REDACTED] to pack his belongings. Robinson described the cell as having a sink, a mirror and a toilet with bunk beds to the right, a wall to the left, and a desk below a window in the back. In the cell, Robinson said he observed [REDACTED] sitting on one of the bunk beds and [REDACTED] standing in front of the bunk between the toilet and the bunk. [REDACTED] told [REDACTED] to pack up his belongings about 4 times and [REDACTED] refused it. Robinson confirmed that from 9:56:23 to 9:57:11, he was standing at the doorway of the cell. At 9:57:11, Robinson entered the cell when he observed [REDACTED] stand up from the bunk and take "an aggressive stance towards" [REDACTED] with his fists balled up as [REDACTED] was yelling insults at [REDACTED]. Robinson entered the cell and told [REDACTED] to turn around at which time he complied. [REDACTED] then handcuffed [REDACTED]. Robinson said that he asked [REDACTED] about his belongings and started to pack up the stuff that was on the bottom bunk in a blanket and a sheet. As Robinson was packing, he had his back toward [REDACTED] and [REDACTED] as they were standing in the front part of the cell. Robinson did not assist [REDACTED] in handcuffing [REDACTED]. Robinson said [REDACTED] did not enter the cell until later. Robinson did not observe [REDACTED] lying on the floor; hear any scuffle or any physical altercation as he was packing. Robinson described [REDACTED] behavior as non-resistant when he was being handcuffed by [REDACTED]. Robinson said that he was not required to complete a use of force report for a non-resistant handcuffing. Robinson said he did not complete a use of force report "because no use of force happened" in his presence. He did receive training in filling out a use of force report during CCDOC in-service training that was offered once a year. When he told OPR that no incident occurred in the cell, Robinson meant that no physical altercation occurred in the cell. While in the cell, Robinson did not hear [REDACTED] complain about injuries or observe any injuries on [REDACTED]. Once [REDACTED] came into the cell, they all exited and walked toward the exit door of the day room which was being held open by [REDACTED]. As Robinson was walking behind [REDACTED] and [REDACTED] he did not observe [REDACTED] use force on [REDACTED]. As they walked toward the hallway, Robinson dropped [REDACTED] belongings by him.

Joint Exhibit 7 (General Order 24.9.1.0 Reporting Incident) was shown to Robinson. Robinson said this exhibit applied to this incident that occurred in March 2012. On the second page of the exhibit, under "Definition", Robinson said that the interaction between [REDACTED] and [REDACTED] did not fall into any of the four examples listed. Robinson then said that the incident between [REDACTED] and [REDACTED] did fall under what he would consider a "reportable incident" but not "serious incident" based on his 20 years of experience. He believed that [REDACTED] had reported this

incident by filing an incident report which was marked previously as Sheriff's Exhibit 3. Robinson did not believe multiple officers were required to complete an incident report. He did not file an incident report because he did not have "any action" with [REDACTED] because he was the back-up officer. He believed [REDACTED] was responsible for filing an incident report because [REDACTED] was the initial officer for the incident. Robinson did not fill out a use of force report either because "no use of force occurred" in his presence. Robinson said that he observed officers handcuff non-resistant detainees every day and none were required to fill out a use of force report. He had never been disciplined or counseled for not filling out a use of force report when handcuffing non-resistant detainees.

Joint Exhibit 5 (Sheriff's Order 11.2.1.0 Response to Resistance/Use of Force Policy) was shown to Robinson. Robinson explained that this policy was in effect on March 27, 2012. Robinson was familiar with all sections under this policy. He believed that [REDACTED] was handcuffed in the cell so that the non-physical incident did not escalate between [REDACTED] and [REDACTED]. The officers' intent was to remove [REDACTED] from the tier because [REDACTED] was being aggressive and disruptive.

Robinson said he was interviewed by OPR twice as an accused. This incident was the second and the first was unfounded approximately a year ago. He was also interviewed by OPR as a witness a year ago. When he was called to OPR and interviewed on March 4, 2014, he was not nervous but did not understand that the statement he gave could have been used against him at a Merit Board hearing. It took him 2 to 3 minutes to review Sheriff's Exhibit 2 prior to signing it.

On direct examination by [REDACTED] attorney, Robinson testified that [REDACTED] was verbally aggressive toward [REDACTED] in the cell. He stood there and watched until [REDACTED] stood up from his bunk and take an aggressive stand toward [REDACTED]. Robinson did not observe [REDACTED] use force on [REDACTED]. Robinson did observe [REDACTED] put handcuff on [REDACTED] but described this incident as "a non-resistance handcuffing." Robinson did not observe [REDACTED] get on top of [REDACTED], turn [REDACTED] over, punch [REDACTED] in the eye, knee [REDACTED] in the shin or kick [REDACTED] in the ribs. Robinson said that [REDACTED] stopped insulting [REDACTED] when he was handcuffed and no force was used when handcuffing.

On cross-examination, Robinson testified that in the day room [REDACTED] was aggressive, combative, using foul language, and refused to listen to orders. In fact, [REDACTED] was escorted to his cell by [REDACTED]. When Robinson walked to the cell, [REDACTED] and [REDACTED] were already inside the cell but [REDACTED] was not handcuffed at that time. Robinson did see [REDACTED] being handcuffed by [REDACTED] in the cell after [REDACTED] had been aggressive and combative toward [REDACTED]. Robinson did not see [REDACTED] charge at [REDACTED] in the cell. Robinson did not see [REDACTED] take [REDACTED] down to the ground because [REDACTED] complied with [REDACTED] when he was told to turn around so he could be placed in handcuffs. Robinson did not see [REDACTED] use any force on [REDACTED] when placed in handcuffs. Robinson said that if he had seen [REDACTED] use force on [REDACTED] to put handcuffs, he would have filled out the use of force report. Robinson said he had his back on [REDACTED] and [REDACTED] when he started to pack up [REDACTED] belongings but that was after [REDACTED] was already in handcuffs. As they were leaving the cell, Robinson said he and [REDACTED] were side to side behind [REDACTED] and [REDACTED]. Robinson did not see [REDACTED] spit at [REDACTED] on the ground, or observe [REDACTED] threatening to spit at [REDACTED]. Robinson said that he had talked to OPR on March 4, 2014 but had not finish so he came back on March 5, 2014 to sign his statement which was Sheriff's Exhibit 2. Robinson said he knew he had an opportunity to secure a legal counsel but chose not to do so. He was given his administrative rights and told that any statement he made could be used against him in a

disciplinary proceeding. When Robinson came back to OPR on March 5, 2014, he was given opportunity to review his statement prior to signing it in the presence of a Union Steward [REDACTED], [REDACTED] and Parks. He was not given time restriction when reviewing his statement. Robinson agreed that as a correctional officer, you have the responsibility to protect the safety and security of detainees and staff as well as to be honest when filling out reports and speaking to OPR investigators. In his statement (Sheriff's Exhibit 2), Robinson agreed that he said, "CO Robinson stated he thought Officer [REDACTED] included him on his use of force/incident report." Robinson said that he meant was that he believed [REDACTED] included his name on the incident report. Robinson agreed that [REDACTED] would have been required to fill out use of force report if he had used force when handcuffing [REDACTED]. Sheriff's Exhibit 3 which was an Incident Report was what Robinson was referring to in his statement. Robinson's name was not mentioned on Sheriff's Exhibit 3. Robinson said that his name should have been included in the narrative portion of Sheriff's Exhibit 3.

On redirect examination by Robinson's attorney, Robinson testified that he did not type up his statement. It was done by [REDACTED]. Robinson again stated that when he used "use of force/incident report" in his statement, he was talking about regular incident report. He had thought that [REDACTED] had included his name in the narrative portion of the incident report but he did not check to see if it was done. Robinson did not mean that [REDACTED] was required to fill out use of force report because in the use of force report, [REDACTED] could not put Robinson's name as a backup officer. Robinson said he was truthful with OPR and that he did not intent to deceive or omit information. Robinson said he was given one notification by OPR and had complied right away without rescheduling.

On redirect examination by [REDACTED] attorney, Robinson testified that there was no reason to fill out use of force report because there was no force used on [REDACTED]. Robinson did say that he did not hear [REDACTED] say to [REDACTED] that he was going to spit. However, Robinson was 15 feet behind talking to Vaickus.

Upon questioning by the Board Member, Robinson testified that once they left the day room, they did not encounter any other inmates prior to being captured on the video in the hallway. Robinson said he did not hear any other inmates telling [REDACTED] to spit on the officers. He did not hear or see [REDACTED] spit on [REDACTED]. He explained that a takedown happened when you grab an inmate and take him/her to the floor. Robinson did not see a takedown or any physical altercation taking place in the cell. Robinson said he was the one that told [REDACTED] to turn around which [REDACTED] complied and [REDACTED] put handcuffs on [REDACTED]. Robinson said he was surprise to hear that [REDACTED] said he had taken down [REDACTED] in the cell. Robinson further said that he was in the cell the whole time with [REDACTED] and [REDACTED].

On redirect examination by [REDACTED] attorney, Robinson said he was still in the day room walking when [REDACTED] and [REDACTED] were walking ahead of him in the hallway.

JOHN [REDACTED]

John [REDACTED] testified on his behalf. [REDACTED] had been employed by the CCDOC for 19 years. [REDACTED] currently works in the warehouse, in the document destruction unit. Prior to that, he worked in Div. XI for 18 ½ years. On March 27, 2012, [REDACTED] worked in the Div. XI, upper A Pod which had protective custody and transgender inmates. He was assigned there for 180 days. The video of the day room was played for [REDACTED]. At 9:52:34, [REDACTED] was standing in the middle of the day room talking to an inmate name [REDACTED] because [REDACTED] and [REDACTED] were fighting and

█████ was being removed. While █████ was in his cell, █████ told █████ to get up, shut up and to move. █████ heard this exchange and came out of his cell saying, "you don't talk to my bitch like that and that he would beat █████ ass." █████ came out running at █████ and took his shirt off. █████ told █████ that he was not going to do anything. The other officers said to "take him down, cuff him." █████ told the other officers not to touch █████ █████ told the other officers that he knew █████ and that █████ was not going to hit him. He described █████ behavior as non-compliant when he refused to go to his cell and pack his belongings. █████ became loud to the point he was yelling at █████ said he told █████ "go pack your shit." █████ said at no time in the day room, he touched █████ At 9:56:04, █████ escorted █████ to his cell as Robinson was walking behind them.

█████ was shown Sheriff's Exhibit 1 which was the statement █████ had given to OPR. █████ said that in Paragraph 4 where it said, "█████ became aggressive, charging at me, getting in my face", he meant that █████ was sitting on his bunk, was not packing his belongings, got off his bunk with his fists balled up and walked up to █████ face and said, "there are no cameras in here." █████ said he did not touch him at this time. In his statement, █████ said that he took █████ down to the ground and handcuffed him. █████ explained that he did not have handcuffs but that Robinson did. Robinson told █████ to "get on the wall." Robinson gave █████ his cuffs and started to pack █████ stuff. █████ put one cuff on █████ while Robinson was packing █████ stuff, █████ started to walk away from █████ and █████ pulled █████ arm causing █████ to go down to a knee. █████ then gave █████ his other arm and █████ was able to put the other cuff. █████ further explained that █████ never went down to the ground but that he went down to one of his knees. █████ said he did not physically pull █████ down to the ground, hit him, flip him on his stomach, kick him in the ribs, nor punch him in the eye. █████ said as they were leaving the cell, walking pass other inmates, one of the transgender inmates said, "I would have spit in his face" at which time █████ replied by saying, "I should spit in his face."

At 9:59:40 in the video, █████ said that the person in the video was █████ but that █████ face was blocked by a pillar by the stairs. █████ explained that █████ at this time spit on the wall and spit in █████ direction. █████ said he was splattered by the spit. At this time, █████ said it was just █████ and him in the hallway. █████ said he pushed █████ face as soon as █████ spit because he did not want to be spit on by █████ █████ said that as an officer, he was trained by the Sheriff's Office to react to a battery and that he believed inmate spitting on officer was a battery. █████ feared that he was going to be battered so he pushed █████ He did not intent to push █████ to the wall causing injuries. █████ statement did not say that he reported to OPR about █████ bleeding from hitting a wall. However, Sheriff's Exhibit 3, the incident report did say that █████ was taken for medical attention. █████ said he was not required to fill out an incident report for handcuffing because handcuffing was not an incident since █████ only went down to a knee. █████ said he did not use force in the cell. He had never been charged with inmate abuse nor had a charge sustained against him for excessive use of force prior to this incident.

On cross-examination, █████ agreed that he had responsibilities to protect the safety and security of detainees and staff; and that no matter how abusive a detainee may get toward him, he cannot respond with excessive force, however, a proper amount of force can be used. He knew that he must be truthful in his reporting and to OPR. █████ described █████ behavior on March 27, 2012 as aggressive, combative and not listening to his commands. █████ again said that █████ went down to one knee when he pulled away from him as he was trying to put handcuffs. He said he did not use force but pulled him causing █████ to go down to one knee.

█████ said he told OPR that he did not throw █████ down to the ground only that he pulled his arm causing █████ to go down on one knee. He was then able to put the other handcuff. █████ said he read the statement he made to OPR for its accuracy but did not ask █████ to change anything in the statement. He did not believe what he said to OPR was going to be used this way to charge him. █████ said █████ was aggressive and combative toward him in the cell but willingly came over and turned around to be handcuffed. It was only when █████ had one cuff on █████ that █████ resisted. █████ said he was not required to fill out an incident report or use of force report if nothing happened in the hallway, however, he still filled out an incident report regarding what happened in the cell. In the incident report, Sheriff's Exhibit 3, █████ put, "R/O escorted █████ to his cell. █████ began packing then charged R/O saying 'ain't no cameras in here Bitch.' R/O took Inmate █████ to the ground and handcuffed him and escorted him off the deck." █████ explained that this was a summary and not everything that happened. █████ said he did not mention in his incident report that an inmate told █████ to spit on █████ also did not mention in his summary that █████ spit on the ground or that █████ said he was going to spit on █████

Joint Exhibit 13 was shown to █████ said he recognized it as his use of force report for the incident that happened in the hallway. █████ put in his report that █████ took "slightly evasive movement of arm" but could not remember since it happened in 2012. When █████ marked "flailing", he meant that █████ was moving his head right to left as █████ was trying to spit at █████ in his report wrote that when █████ attempted to spit at him, he grabbed █████ and threw him to the ground. He did not write in his report that he struck █████ by the head causing █████ to hit a wall. █████ explained that he did not have to put what he did but only the reason why he used force. However, █████ did state in his use of force report that he grabbed █████ by the head and threw him on the ground. █████ said that the video did not show him throwing █████ to the ground. His use of force report did not state that █████ threatened to spit at █████ or that █████ did spit on the ground. Sheriff's Exhibit 3, the incident report filled out by █████ did not state that he placed his hand on █████ causing █████ to hit his head on the wall. █████ believed that being spit on by a detainee was a battery but he did not file a battery charge against █████ █████ agreed that if █████ did not attempt to spit at him, he was not allowed to use force on █████ █████ said just before 9:59:44 on the video when he pushed █████ head, █████ attempted to spit at him. Joint Exhibit 12 was the Inmate Disciplinary Report filled out by █████ on █████ █████ wrote that █████ infraction was that he attempted to spit at █████ did not write in the report that he put his hand on █████ causing █████ to hit his head on a wall. █████ said he was only required to write the inmate's infraction. █████ did not write that he grabbed █████ and pushed him to the ground either.

On redirect examination by █████ attorney, █████ testified that in the Joint Exhibit 13, the use of force report, a box for "Imminent threat of battery" was marked. █████ said the threat of battery was for attempted spit on him. █████ explained that the incident report was partly filled out by him and his supervisor. █████ marked the incident type as "Battery to staff." █████ Exhibit 2 was a watch commander's preliminary finding. █████ said he reported to Lt. █████ and OPR that he had struck or pushed █████ into the wall causing █████ to strike his head. █████ said he did not file a battery complaint against █████ because he had never filed one against any inmates even when he was hit by them.

On redirect examination by Robinson's attorney, █████ testified that when he was in the cell with █████ he was focusing on █████ and not on Robinson who was standing by the door. █████ did not know what Robinson was doing until Robinson stepped into the cell.

On re-cross examination, [REDACTED] testified that he never told Lt. [REDACTED] that he had to sidestep the spit from [REDACTED]

Findings/Conclusion of the Law:

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence including all the exhibits that were admitted, the Board finds preponderance of the evidence that the Respondent, Officer Robinson did violate Sheriff's Order 11.2.1.0 and General Order 24.9.1.0 when he failed to fill out an excessive force report regarding the incident that occurred inside [REDACTED] cell. Under the Sheriff's Order and General Order, Respondent was required to file and submit a use of force incident report when he saw Officer [REDACTED] use force on [REDACTED] in the cell. [REDACTED] testified that he did not use force when putting handcuffs on [REDACTED] however, he did testified that he pulled [REDACTED] by his arm when [REDACTED] resisted from being handcuffed causing [REDACTED] to fall on one of his knees. [REDACTED] testimony was inconsistent with his statement to OPR and his incident report. [REDACTED] statement to OPR was that [REDACTED] became aggressive, charged at him and got into his face. He then took [REDACTED] down to the ground and handcuffed him. In his incident report, [REDACTED] wrote that he took [REDACTED] to the ground and handcuffed him. Robinson testified that takedown happens when you grab an inmate and take him/her to the floor. Since both [REDACTED] and Respondent testified that Respondent was present the whole time [REDACTED] and [REDACTED] were in the cell, Respondent should have seen [REDACTED] use force on [REDACTED] when handcuffing him or when [REDACTED] performed a takedown on [REDACTED]. Respondent's version of what happened in the cell is unbelievable and not credible. He testified that he told [REDACTED] to turn around to be handcuffed after observing [REDACTED] ball up his fists and take an aggressive stand toward [REDACTED] as if to say all of sudden, [REDACTED] decided to listen to Respondent's command. Respondent testified that he saw [REDACTED] put handcuffs on [REDACTED] and that no force was used. And because no force was used, he did not fill out a use of force report as a witness. In addition, Respondent's testimony and his statement to OPR were inconsistent.

The Board further finds that Respondent violated General Order 3.8 and Sheriff's Order 11.2.20.0 when he failed to conduct himself in a professional and ethical manner by being untruthful to his supervisor, failing to report what he saw in the cell, and being untruthful to OPR. Finally, Robinson violated Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B when he failed to follow General Orders and Sheriff's Orders.

Order:

Wherefore, based on the foregoing, it is hereby ordered that the Respondent is suspended for sixty (60) days from the Cook County Sheriff's Office effective December 23, 2014.



JAMES P. NALLY, Chairman



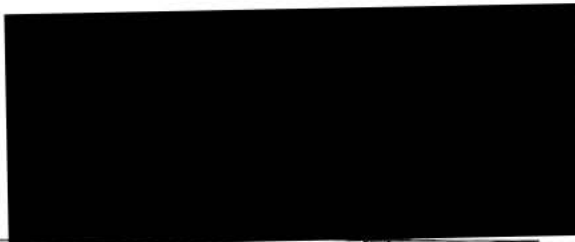
BYRON BRAZIER, Vice-Chairman



JOHN J. BALICANDRO, Secretary



BRIAN RIORDAN, Board Member



KIM R. WIDUP, Board Member

Discont as to [unclear]



VINCENT T. WINTERS, Board Member



JENNIFER E. BAE, Board Member



PATRICK BRADY, Board Member

Dated: October 13, 2015